

Assembly Bill No. 1078

CHAPTER 622

An act to amend Sections 11155.2, 11155.4, 11155.6, 11322.6, and 15204.6 of, and to add Section 11322.5 to, the Welfare and Institutions Code, relating to CalWORKs.

[Approved by Governor October 13, 2007. Filed with
Secretary of State October 13, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1078, Lieber. CalWORKs: eligibility: income and assets.

Existing federal law provides for allocation of federal funds through the federal Temporary Assistance for Needy Families (TANF) block grant program to eligible states, with California's version of this program being known as the California Work Opportunity and Responsibility to Kids (CalWORKs) program.

Existing law provides for the CalWORKs program, under which each county provides cash assistance and other benefits to qualified low-income families and individuals who meet specified eligibility criteria.

Existing law imposes limits on the amount of income and personal and real property, including savings accounts, that an individual or family may possess in order to be eligible for aid under the CalWORKs program. Under existing law, principal and interest in designated federally created retirement or college savings plans held by existing CalWORKs recipients, but not new applicants, are excluded as property for purposes of redetermining eligibility and the amount of assistance.

This bill would delete the maximum amount of savings and interest that a CalWORKs recipient would be permitted to retain. The bill would extend the provisions excluding from income the principal and interest in the designated federal savings plans to CalWORKs applicants.

By increasing duties of counties administering the CalWORKs program, this bill would impose a state-mandated local program.

Federal income tax laws allow a refundable federal Earned Income Tax Credit (EITC) for low-income individuals that meet specified requirements.

This bill would declare the intent of the Legislature to maximize the abilities of CalWORKs recipients to benefit from, and be educated about, the EITC, as specified. The bill would impose various duties on the State Department of Social Services in this regard, and would authorize counties administering the CalWORKs program that choose to participate to take specified actions, in order to carry out this intent.

Existing law, contingent on a Budget Act appropriation, provides for a Pay for Performance Program to provide additional funding for counties that meet specified welfare-to-work improvement standards.

This bill would revise the Pay for Performance Program to include, only if and to the extent that a specified determination is made by the department, an improvement standard for counties with a percentage of county CalWORKs cases with earned income that equals or exceeds a specified income level, as provided.

Existing law continually appropriates money from the General Fund to pay for a share of aid grant costs under the CalWORKs program.

The bill would declare that no appropriation would be made for purposes of the bill pursuant to the provision continuously appropriating funds for the CalWORKs program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 11155.2 of the Welfare and Institutions Code is amended to read:

11155.2. (a) In addition to the personal property permitted by this part, recipients of aid under CalWORKs shall be permitted to retain savings and interest thereon for specified purposes. Interest earned from these savings and deposited into a restricted account shall be considered exempt as income for purposes of determining eligibility for aid and grant amounts if the interest is retained in the account. If the interest is not deposited by the financial institution into the account, the interest shall be treated as a nonqualifying withdrawal of funds from the account as specified in subdivision (b). This section shall not apply to applicants. Funds may be used by the family for education or job training expenses for the account holder or his or her dependents, for starting a business, or for the purchase of a home. Recipients who wish to retain savings for these purposes shall enter into a written agreement with the county to establish a separate account with a financial institution, with the account to be used solely for the purpose of accumulating funds for later withdrawal for a qualifying expenditure. A qualifying expenditure shall be defined by department regulations and shall be verified by the recipient. The recipient shall agree to provide periodic verification of account activity, as required by department regulations. The agreement shall notify the recipient of the penalty for nonqualifying withdrawal of funds.

(b) Any nonqualifying withdrawal of funds from the account shall result in a calculation of a period of ineligibility for all persons in the assistance unit, to be determined by dividing the balance in the account immediately prior to the withdrawal by the minimum basic standard of adequate care for the members of the assistance unit, as set forth in Section 11452. The

resulting whole number shall be the number of months of ineligibility. The period of ineligibility may be reduced when the minimum basic standard of adequate care of the assistance unit, including special needs, increases.

(c) If the California Savings and Asset Project is established pursuant to Chapter 17 (commencing with Section 50897) of Part 2 of Division 31 of the Health and Safety Code, then to the extent permitted by federal law, a recipient shall be eligible to receive matching funds derived from federal contributions for the purpose of establishing an individual account in an amount not to exceed three thousand dollars (\$3,000) in addition to the amounts specified in subdivision (a) and a fiduciary organization may provide amounts in excess of the first three thousand dollars (\$3,000) limitation if contributed solely through private sources.

SEC. 2. Section 11155.4 of the Welfare and Institutions Code is amended to read:

11155.4. The principal and interest in an individual development account established in accordance with the federal requirements of Section 604(h) of Title 42 of the United States Code or established by a statewide individual development account program shall be exempt from consideration when determining or redetermining eligibility and the amount of CalWORKs assistance.

SEC. 3. Section 11155.6 of the Welfare and Institutions Code is amended to read:

11155.6. (a) (1) The principal and interest in a 401(k) plan, 403(b) plan, or 457 plan shall be excluded from consideration as property when determining eligibility and the amount of assistance with respect to an applicant for benefits who is not a recipient of CalWORKs benefits.

(2) The principal and interest in a 401(k) plan, 403(b) plan, IRA, 457 plan, 529 college savings plan, or Coverdell ESA, shall be excluded from consideration as property when redetermining eligibility and the amount of assistance for recipients of CalWORKs benefits.

(b) For purposes of this section, the following terms have the following meanings:

(1) “401(k) plan” means a deferred compensation plan that satisfies the requirements of Section 401(k) of the Internal Revenue Code.

(2) “403(b) plan” means a qualified annuity plan that satisfies the requirements of Section 403(b) of the Internal Revenue Code.

(3) “IRA” means an individual retirement account that satisfies the requirements of Section 408 of the Internal Revenue Code.

(4) “457 plan” means a deferred compensation plan that satisfies the requirements of Section 457 of the Internal Revenue Code.

(5) “529 college savings plan” means a qualified tuition program that satisfies the requirements of Section 529 of the Internal Revenue Code.

(6) “Coverdell ESA” means an education savings account that satisfies the requirements of Section 530 of the Internal Revenue Code.

SEC. 4. Section 11322.5 is added to the Welfare and Institutions Code, to read:

11322.5. (a) It is the intent of the Legislature to do each of the following:

(1) Maximize the ability of CalWORKs recipients to benefit from the federal Earned Income Tax Credit (EITC), including retroactive EITC credits and the Advance EITC, take advantage of the earned-income disregard to increase their federal Food Stamp Program benefits, and accumulate credit toward future social security income.

(2) Educate and empower all CalWORKs participants who receive the federal EITC to save or invest part or all of their credits in instruments such as individual development accounts, 401(k) plans, 403(b) plans, IRAs, 457 plans, Coverdell ESA plans, restricted accounts pursuant to subdivision (a) of Section 11155.2, or 529 plans, and to take advantage of the federal Assets for Independence Program and any other matching funds, tools, and training available from public or private sources, in order to build their assets.

(b) It is the intent of the Legislature that counties encourage CalWORKs recipients to participate in activities that will maximize their receipt of the EITC. To this end, counties may do all of the following:

(1) Structure welfare-to-work activities pursuant to subdivisions (a) to (j), inclusive, of Section 11322.6 to give recipients the option of maximizing the portion of their CalWORKs benefits that meets the definition of “earned income” in Section 32(c)(2) of the Internal Revenue Code.

(2) Inform CALWORKS recipients of each of the following:

(A) That earned income, either previous or future, may make them eligible for the federal EITC, including retroactive EITC credits and the Advance EITC, increase their federal Food Stamp Program benefits, and accumulate credit toward future social security income.

(B) That recipients, as part of their welfare-to-work plans, have the option of engaging in subsidized employment and grant-based on-the-job training, as specified in Section 11322.6, and that participating in these activities will increase their earned income to the extent that they meet the requirements of federal law.

(C) That receipt of the federal EITC does not affect their CalWORKs grant and is additional tax-free income for them.

(D) That a CalWORKs recipient who receives the federal EITC may invest these funds in an individual development account, 401(k) plan, 403(b) plan, IRA, 457 plan, 529 college savings plan, Coverdell ESA, or restricted account, and that investments in these accounts will not make the recipient ineligible for CalWORKs benefits or reduce the recipient’s CalWORKs benefits.

(3) At each regular eligibility redetermination, the county shall ask each recipient whether the recipient is eligible for and takes advantage of the EITC. If the recipient may be eligible and does not participate, the county shall give the recipient the federal EITC form and encourage and assist the recipient to take advantage of it.

(c) (1) No later than December 1, 2008, the State Department of Social Services shall develop guidelines that counties may adopt to carry out the intent of this section and shall present options to the Governor and Legislature for any legislation necessary to further carry out the intent of this section.

(2) In developing the guidelines and legislative options, the department shall consult and convene at least one meeting of subject-matter experts, including representatives from the Assembly and Senate Human Services Committees, Assets for All Alliance, Asset Policy Initiative of California, California Budget Project, California Catholic Conference, California Council of Churches, California Family Resource Association, California State Association of Counties, CFED, County Welfare Directors Association of California, Federal Reserve Bank of San Francisco, Legislative Analyst's Office, Lifetime, National Council of Churches, National Economic Development and Law Center, New America Foundation, Public Policy Institute of California, University of California at Los Angeles Law School, United States Internal Revenue Service, and Western Center on Law and Poverty. Nothing in this section requires the department to compensate or pay expenses for any person it consults or invites to the meeting or meetings.

SEC. 5. Section 11322.6 of the Welfare and Institutions Code is amended to read:

11322.6. The welfare-to-work plan developed by the county welfare department and the participant pursuant to this article shall provide for welfare-to-work activities. Welfare-to-work activities may include, but are not limited to, any of the following:

- (a) Unsubsidized employment.
- (b) Subsidized private sector employment.
- (c) Subsidized public sector employment.

(d) Work experience, which means public or private sector work that shall help provide basic job skills, enhance existing job skills in a position related to the participant's experience, or provide a needed community service that will lead to employment. Unpaid work experience shall be limited to 12 months, unless the county welfare department and the recipient agree to extend this period by an amendment to the welfare-to-work plan. The county welfare department shall review the work experience assignment as appropriate and make revisions as necessary to ensure that it continues to be consistent with the participant's plan and effective in preparing the participant to attain employment.

- (e) On-the-job training.

(f) (1) Grant-based on-the-job training, which means public or private sector employment or on-the-job training in which the recipient's cash grant, or a portion thereof, or the aid grant savings resulting from employment, or both, is diverted to the employer as a wage subsidy to partially or wholly offset the payment of wages to the participant, so long as the total amount diverted does not exceed the family's maximum aid payment.

(2) A county shall not assign a participant to grant-based on-the-job training unless and until the participant has voluntarily agreed to participate in grant-based on-the-job training by executing a voluntary agreement form, which shall be developed by the department. The agreement shall include, but not be limited to, information on the following:

(A) How job termination or another event will not result in loss of the recipient's grant funds, pursuant to department regulations.

(B) (i) How to obtain the federal Earned Income Tax Credit (EITC), including the Advance EITC, and increased Food Stamp Program benefits, which may become available due to increased earned income.

(ii) This subparagraph shall only become operative when and to the extent that the department determines that it reflects current federal law and Internal Revenue Service regulations.

(C) How these financial supports should increase the participant's current income and how increasing earned income should increase the recipient's future social security income.

(3) Grant-based on-the-job training shall include community service positions pursuant to Section 11322.9.

(4) Any portion of a wage from employment that is funded by the diversion of a recipient's cash grant, or the grant savings from employment pursuant to this subdivision, or both, shall not be exempt under Section 11451.5 from the calculation of the income of the family for purposes of subdivision (a) of Section 11450.

(g) Supported work or transitional employment, which means forms of grant-based on-the-job training in which the recipient's cash grant, or a portion thereof, or the aid grant savings from employment, is diverted to an intermediary service provider, to partially or wholly offset the payment of wages to the participant.

(h) Workstudy.

(i) Self-employment.

(j) Community service.

(k) Adult basic education, which shall include reading, writing, arithmetic, high school proficiency, or general educational development certificate of instruction, and English-as-a-second-language. Participants under this subdivision shall be referred to appropriate service providers that include, but are not limited to, educational programs operated by school districts or county offices of education that have contracted with the Superintendent of Public Instruction to provide services to participants pursuant to Section 33117.5 of the Education Code.

(l) Job skills training directly related to employment.

(m) Vocational education and training, including, but not limited to, college and community college education, adult education, regional occupational centers, and regional occupational programs.

(n) Job search and job readiness assistance, which means providing the recipient with training to learn job seeking and interviewing skills, to understand employer expectations, and learn skills designed to enhance an individual's capacity to move toward self-sufficiency, including financial management education.

(o) Education directly related to employment.

(p) Satisfactory progress in secondary school or in a course of study leading to a certificate of general educational development, in the case of a recipient who has not completed secondary school or received such a certificate.

(q) Mental health, substance abuse, and domestic violence services, described in Sections 11325.7 and 11325.8, and Article 7.5 (commencing with Section 11495), that are necessary to obtain and retain employment.

(r) Other activities necessary to assist an individual in obtaining unsubsidized employment.

Assignment to an educational activity identified in subdivisions (k), (m), (o), and (p) is limited to those situations in which the education is needed to become employed.

SEC. 6. Section 15204.6 of the Welfare and Institutions Code is amended to read:

15204.6. (a) Contingent upon a Budget Act appropriation, a Pay for Performance Program shall provide additional funding for counties that meet the standards developed according to subdivision (c) in their welfare-to-work programs under Article 3.2 (commencing with Section 11320) of Chapter 2. The state shall have no obligation to pay incentives earned that exceed the funds appropriated for the year in which the incentives were earned.

(b) To the extent that funds are appropriated, the maximum total funds available to each county each year under the Pay for Performance Program shall be 5 percent of the funds the county receives that year, less the amount for child care, from the single allocation under Section 15204.2. If funds appropriated for this section are less than the incentives earned under this subdivision, each county's allocation under this section shall be prorated based on the amount of funds appropriated for that year.

(c) The funds available to each county under the Pay for Performance Program shall be divided each year into as many equal parts as there are measures established for the year under this subdivision. A county shall earn payment of one equal part for each improvement standard that it achieves for the year or by ranking in the top 20 percent of all counties in a measure identified in paragraphs (1), (2), (3), (4), and (5), except as provided in subparagraph (B) of paragraph (4). Counties may receive a pro rata share of incentive funds for each improvement standard. The department shall consult with the County Welfare Directors Association, legislative staff, and other stakeholders, when developing improvement standards and the methodology for earning and distributing incentives for each of the following measures:

(1) The employment rate of county CalWORKs cases.

(2) The federal participation rates of county CalWORKs cases, calculated in accordance with Section 607 of Title 42 of the United States Code, but excluding individuals who are exempt in accordance with Section 11320.3 and including sanctioned cases and cases participating in activities described in subdivision (q) of Section 11322.6. If valid data does not exist to measure this outcome, the funds for this measure shall be made available for the Pay for Performance Program in the following fiscal year.

(3) The percentage of county CalWORKs cases that have earned income three months after ceasing to receive assistance under Section 11450.

(4) (A) The percentage of county CalWORKs cases, including cases that have ceased receiving assistance in the previous two quarters, with earned income that equals or exceeds the income level for the maximum EITC amount available to a household, as determined under Section 22 of the Internal Revenue Code.

(B) This paragraph shall only become operative if the department, in consultation with the County Welfare Directors Association, legislative staff, and other stakeholders, determines that implementing its provisions will not create a substantial risk of California failing to meet federal welfare-to-work participation goals, and shall remain operative for so long as the department does not reverse that determination.

(5) Any additional measures that the department may establish in consultation with the County Welfare Directors Association, legislative staff, and other stakeholders.

(d) Performance measures, standards, outcomes, and payments to counties under subdivisions (a), (b), and (c) shall be based on the following schedule:

(1) For the performance measure described in paragraph (2) of subdivision (c), payments in fiscal year 2007–08 shall be based on outcomes for the period of July 1, 2006, through December 31, 2006, compared to outcomes for the period of January 1, 2007, through June 30, 2007, and payments in each subsequent fiscal year shall be based on outcomes for the fiscal year prior to payment, compared to outcomes for the fiscal year two years prior to payment.

(2) For all other performance measures, payments shall be based on outcomes for the fiscal year prior to payment, compared to outcomes for the fiscal year two years prior to payment.

(e) The department may make further adjustments to any of the performance measures listed under subdivision (c), in consultation with the County Welfare Directors Association, legislative staff, and other stakeholders. The act that both amends subdivision (c) and enacts this sentence in the 2007–08 Regular Session of the Legislature shall not limit the department's authority under this subdivision.

(f) The funds paid in accordance with this section may only be used in accordance with subdivisions (f) and (g) of Section 10544.1 and only for the purpose of enhancing family self-sufficiency. Funds earned by a county in accordance with this section shall be available for expenditure in the fiscal year that they are received and the following two fiscal years. Following the period of availability, and notwithstanding any provisions of subdivision (f) of Section 10544.1 to the contrary, any unspent balance shall revert to the Temporary Assistance for Needy Families (TANF) block grant.

(g) Any funds appropriated by the Legislature for the Pay for Performance Program, but not earned by a county, shall revert to the TANF block grant at the end of the fiscal year for which the funds were appropriated.

(h) The department shall periodically publish the outcomes measured by the Pay for Performance Program, identified by county.

(i) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the

Government Code, the department may implement this section through all-county letters throughout the duration of the Pay for Performance Program.

SEC. 7. No appropriation pursuant to Section 15200 of the Welfare and Institutions Code shall be made for the purposes of this act.

SEC. 8. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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